

MINUTES  
MALIBU CITY COUNCIL  
REGULAR MEETING  
NOVEMBER 26, 2001  
HUGHES AUDITORIUM  
6:30 P.M.

**CLOSED SESSION**

At 5:30 p.m., the regular meeting of the Malibu City Council convened. City Attorney Hogin announced that the purpose of the Closed Session was to discuss matters listed on the posted agenda pursuant to Government Code Sections 54956.9(a), 54956.9(b), and 54956.9(c). The City Council recessed to a closed session.

**CALL TO ORDER**

Mayor House reconvened the meeting at 6:45 p.m.

Mayor House announced that Councilmember Hasse would not be present at the meeting.

**ROLL CALL**

The following persons were recorded in attendance by the Recording Secretary:

PRESENT: Mayor Joan House, Mayor Pro Tem Jeffrey Jennings, Councilmembers Sharon Barovsky and Ken Kearsley.

ABSENT: Councilmember Thomas Hasse

ALSO PRESENT: Katie Lichtig, Acting City Manager; Christi Hogin, City Attorney; Paul Adams, Parks and Recreation Director; Chuck Bergson, Public Works Director; Barry Hogan, Planning Director; Drew Purvis, Senior Planner; Andrew Ho, Assistant Planner; Lt. Bradstock; and Lisa Pope, City Clerk

**FLAG SALUTE**

Mayor House led the Pledge of Allegiance.

**CLOSED SESSION REPORT**

City Attorney Hogin announced that the Council met in Closed Session at 5:30 p.m. for the purpose of discussing matters listed on the posted closed session agenda as follows:

**Existing litigation per Government Code Section 54956.9 (a):**

1. Antario v. City of Malibu  
Los Angeles County Superior Court Case No. BC253990

2. City of Malibu v. California Coastal Commission  
Los Angeles County Superior Court Case No. BC230410
3. City of Malibu v. Santa Monica Mountains Conservancy (Streisand Center)  
Ventura County Superior Court Case No. CIV193900
4. Coffman v. City of Malibu  
Los Angeles County Superior Court Case No. BC246067
5. Darian v. Accent Builders et al.  
United States District Court Case No. 00-10255-FMC(JWJ)
6. Dove, et al. v. Malibu City Council, et al.  
Los Angeles County Superior Court Case No. BC254020
7. Keach v. City of Malibu  
Los Angeles County Superior Court Case No. SS009723
8. Lavine v. City of Malibu  
Los Angeles County Superior Court Case No. SS 008071
9. Malibu Township Council v. City of Malibu, et al.  
Los Angeles County Superior Court Case No. SC067214
10. Rubens v. City of Malibu  
Los Angeles County Superior Court Case No. SC060331
11. Sierra Club v. City of Malibu  
Los Angeles County Superior Court Case No. BS064912
12. Silver v. City of Malibu  
Los Angeles County Superior Court Case No. BC255025
13. Trancas Property Owners Association v. City of Malibu  
Los Angeles County Superior Court Case No. SC054684
14. Taxpayers for Livable Communities; Jay Liebig v. City of Malibu  
Los Angeles County Superior Court Case No. BC258432
15. Chicksands Properties LTD. v. City of Malibu et al.  
Los Angeles County Superior Court Case No. BS072081

16. Levenson v. City of Malibu et al.  
Los Angeles County Superior Court Case No. SC059037
17. Marine Forest Society v. California Coastal Commission Case No. 00AS00567  
(Sacramento Superior Court) (Amicus)

**Anticipated Litigation pursuant to Government Code Section 54956.9(b):**

18. Number of potential cases: 1

**Initiation of Litigation pursuant to Government Code Section 54956.9(c):**

19. Number of cases: 1

City Attorney Hogin reported that the Council discussed many of the closed session items and took no reportable action.

**APPROVAL OF AGENDA**

MOTION Councilmember Kearsley moved and Councilmember Barovsky seconded a motion to approve the agenda and adjourn in memory of Legrand Lewis Jordan and Helen Morgan. The motion carried 4-0, Councilmember Hasse absent.

**REPORT ON POSTING OF AGENDA**

City Clerk Pope reported that the agenda for the meeting was posted on November 16, 2001.

**ITEM 1 CEREMONIAL/PRESENTATIONS**

- A. Presentation of Proclamation to Beverly Taki, 2001 Association of Realtors President

Mayor House presented a proclamation to Beverly Taki, 2001 Association of Realtors President. Ms. Taki expressed her gratitude to the City and wished for continued collaborative efforts between the Board of Realtors and the City.

- B. Proclamation Declaring December 1, 2001 as World Aids Day 2001

Mayor House read the proclamation declaring December 1, 2001 as World Aids Day 2001.

C. Proclamation to the City of La Canada Flintridge in Celebration of their 25<sup>th</sup> Anniversary

Mayor House read the proclamation for the City of La Canada Flintridge in celebration of their 25<sup>th</sup> Anniversary.

**ITEM 2      A.    PUBLIC COMMENTS**

Paul Grisanti, President of the Kiwanis Club of Malibu, presented the City Council with an American Flag for use at Malibu Bluffs Park.

**B.    COUNCIL COMMENTS**

Councilmember Kearsley congratulated Ms. Taki on her proclamation. He thanked the Malibu Board of Realtors for sponsoring the buses to the LCP hearings. He thanked the Kiwanis Club for the flag. He discussed the recent LCP hearings and Council Schools Subcommittee meeting.

Councilmember Barovsky thanked the Kiwanis Club for the flag. She stated she had attended the Strategic Planning meeting for Santa Monica-Malibu schools. She suggested the community provide input on planning for schools.

Mayor Pro Tem Jennings congratulated Ms. Taki. He thanked Mr. Grisanti for the flag. He discussed recent meetings he had attended. He discussed the LCP hearings and stated there were positive indications that the City's voice would be heard. He discussed the Land Use Subcommittee meeting and efforts to refine procedures for receiving a development permit.

Mayor House announced recent events she had attended. She congratulated Ms. Taki. She thanked Mr. Grisanti and the Kiwanis Club for the presentation of the flag.

**ITEM 3      CONSENT CALENDAR**

Mayor House pulled Item No. 3.B.7.

**MOTION**      Councilmember Kearsley moved and Councilmember Barovsky seconded a motion to approve the Consent Calendar with the exception of Item No. 3.B.7. The motion carried 4-0, Councilmember Hasse absent.

The Consent Calendar consisted of the following items:

A. Previously Discussed Items

1. Second Reading and Adoption of Ordinance No. 234, An Ordinance of the City of Malibu Amending Section 3.2.07 of the Malibu Municipal Code Establishing Prima Facie Speed Limits on City Streets  
Staff recommendation: Conduct the second reading and adopt Ordinance No. 234.

B. New Items

1. Waive further reading  
Staff recommendation: After the City Attorney has read the title, waive full reading of ordinances considered on this agenda for introduction on first reading and/or second reading and adoption.
2. Approve Warrants  
Staff recommendation: To allow and approve warrant demand numbers 17906 through 17962 listed on the register from the General Fund and direct the City Treasurer to pay out the funds to each of the claimants listed in Warrant Register No. 247 in the amount of the warrant appearing opposite their names, for the purposes stated on the respective demands, including payroll checks, in a total amount of \$511,758.80.
3. Re-affirm the State of Local Emergency Declared by the Director of Emergency Services on March 9, 2001 relating to the landslide Road Failure at Corral Canyon  
Staff recommendation: Re-affirm the State of Local Emergency by minute order.
4. Denial of Claim for Damages filed by Martha Hermann  
Staff recommendation: Deny the claim filed by Martha Hermann.
5. Approval of Minutes  
Staff recommendation: Approve City Council meeting minutes for the meeting held on November 13, 2001.
6. Consider Proposed 2002 Calendar of City Council Meetings for Adoption  
Staff recommendation: Council to consider proposed 2002 Calendar of City Council meetings for adoption.
7. Award Contract to Vexcel Corporation to provide Digital Aerial Photos and Topographic Services (Pulled from the Consent Calendar for individual consideration)  
Staff recommendation: Authorize the Acting City Manager to execute a professional services agreement with Vexcel Corporation for the acquisition of digital aerial photos (orthophoto and topographic imagery) for the City of Malibu.
8. Youth Employment Plan for Providing Youth Employment Opportunities as Required by Safe Neighborhood Parks Act (Proposition A Grants)  
Staff recommendation: Approve the attached policy establishing the method to be used to fulfill the City's employment of at-risk youth

requirements from the 1992 and 1996 Proposition A grants received by the City.

9. L.A. County Household Hazardous Waste Collection Saturday, December 1, 2001

Staff recommendation: Declare Council support for the Los Angeles County's Household Hazardous Waste Event to be held at the Civic Center on Saturday, December 1, 2001.

ITEM 3.B.7. Award Contract to Vexcel Corporation to provide Digital Aerial Photos and Topographic Services

Staff recommendation: Authorize the Acting City Manager to execute a professional services agreement with Vexcel Corporation for the acquisition of digital aerial photos (orthophoto and topographic imagery) for the City of Malibu.

Mayor Pro Tem Jennings asked if notice could be provided prior to photographs being taken. Acting City Manager Lichtig stated she was assured that there would not be enough detail as to invade people's privacy. She stated she was unsure of the scheduling but would attempt to notice property owners.

Councilmember Kearsley questioned whether such detailed pictures were necessary. He expressed concern about the company owning the photographs.

Councilmember Barovsky expressed concern about Vexcel owning the data and pictures and having the ability to sell the photographs. She stated the City ought to own the data.

Acting City Manager Lichtig proposed deferring the item so that City Engineer Morgan could be present to respond to the Council's questions.

Mayor House discussed the proposed rights of Vexcel regarding the data. She suggested reviewing the other proposals for ownership levels and product costs. She expressed concern that the City would not own the final product.

City Attorney Hogin indicated there were inconsistencies between the Scope of Services and Fee Proposal and the Agreement for Professional Services.

CONSENSUS By consensus, the Council referred the matter back to staff.

**ITEM 4            ORDINANCES AND PUBLIC HEARINGS**

- A.    APPEAL NO. 00-002 - An appeal of the Planning Commission's decision to approve Plot Plan Review No. 00-094 and Variance No. 99-036 for the construction of a 20-foot wide, 1,660 foot long, private access road located northeast of Sweetwater Mesa Road (APN #4452-025-008-11-16), APPELLANT: C. W. Carson, APPLICANT: Schmitz and Associates, OWNER: Brian A. Sweeney, Mika Heights L.L.C., Jean Ross L.L.C., & Catherine Isabel L.L.C., LOCATION: 3300 Sweetwater Mesa Road  
Staff recommendation: Adopt Resolution No. 01-65 upholding the Planning Commission's decision to approve the proposed project and adopt the mitigated negative declaration limiting access rights to the proposed road to a maximum of five single-family residences.

Don Schmitz stated they just became aware of the item on the Santa Monica Mountains Conservancy agenda regarding a comments letter on the project. He requested continuing the hearing to allow the applicant to respond to Santa Monica Mountains Conservancy comment letter.

City Attorney Hogin explained that the appellant would not be prejudiced by a continuance. She stated it may be advisable to continue the hearing given the issues raised at the late date. She suggested the Council confirm that the appellant and applicant could appear at the December 10, 2001 City Council meeting.

Mr. Carson stated he would be available on January 14, 2002.

Mayor Pro Tem Jennings requested staff clarify whether issues outside the City should be considered by the Council.

Councilmember Barovsky suggested continuing the hearing to January 28, 2002 due to the heavy schedule based on the cancellation of the second meeting in December.

Mr. Carson stated he would prefer January 28, 2002.

Mr. Schmitz stated they would prefer January 14<sup>th</sup> but either date would be acceptable.

**MOTION**            Councilmember Kearsley moved and Councilmember Barovsky seconded a motion to continue the item to January 28, 2002. The motion carried 4-0, Councilmember Hasse absent.

**ITEM 5        OLD BUSINESS**

A.    Las Flores Creek Park Improvements and Council Resolution for Grant Request to the California Department of Parks and Recreation, Proposition 12, for Pedestrian Bridge and Public Parking

Staff recommendation: 1) Approve the project phasing schedule as described below; 2) Approve the project design; and 3) Adopt Resolution No. 01-67 approving the application for grant funding from the California Department of Parks and Recreation - Proposition 12, for a pedestrian bridge and public parking at Las Flores Creek Park.

Public Works Director Bergson and Parks and Recreation Director Adams presented the staff report.

Councilmember Barovsky indicated complete support for the project.

Councilmember Kearsley stated he supported the design. He expressed appreciation for the efforts made to obtain funds for restoration of the creek.

Mayor Pro Tem Jennings stated he supported the overall project but was concerned about approving the plans and phasing schedule before the grant was in place.

Acting City Manager Lichtig stated she had reviewed the staff reports and minutes from the previous Council actions. She stated there was general direction given that could have been interpreted differently. She stated there was some degree of fuzziness regarding slope stabilization.

Councilmember Kearsley asked about funding for slope stabilization and repair of the creek. Public Works Director Bergson explained the grant received for study and slope stabilization.

Mayor Pro Tem Jennings stated he was not clear on the staff recommendation. He asked what the Council would be doing by approving the phasing schedule. Acting City Manager Lichtig explained that the recommendation authorized staff to proceed with the phasing as funding became available.

Public Works Director Bergson stated staff was asking for approval of the plans for Phase 1.

Mayor House asked about the private property indicated on the construction plans. Public Works Director Bergson stated the property had been surveyed



and the report indicated a portion was private property. Mayor House asked if the property owner had been contacted. Parks and Recreation Director Adams explained that there were three property owners involved. He discussed the potential sale or donation of the land. Mayor House asked about use of exotic plants. Parks and Recreation Director Adams explained the need to remove some exotic plants. Mayor House suggested inviting a member of the Garden Club to determine possible relocation of exotic plants. Parks and Recreation Director Adams stated some volunteer groups would be participating in the removal process.

Mayor Pro Tem Jennings discussed approval of the phasing schedule and lack of funding. Acting City Manager Lichtig explained that staff would continue to attempt to fund the project. Mayor Pro Tem Jennings asked if Phase 3 could proceed Phase 2 if funding were available. Public Works Director Bergson stated the matter would come back to Council with an alternative phasing plan.

Councilmember Barovsky asked if the Council could approve only Phase 1 at this time. Acting City Manager Lichtig stated that was an option available to the Council. She requested conceptual approval on the items in each phase.

Acting City Manager Lichtig explained staff's efforts to obtain grants for the project.

Parks and Recreation Director Adams explained the proposed phases.

Mayor Pro Tem Jennings asked if Phase 3 could be split to complete slope stabilization, then bridge and parking lot construction. Acting City Manager Lichtig stated there would be a minimal financial impact in terms of remobilization of a construction crew. She stated there was potential that they would be done separately due to grant funding. Mayor Pro Tem Jennings suggested doing the necessary items followed by the desired items.

MOTION Mayor Pro Tem Jennings moved and Councilmember Kearsley seconded a motion to 1) Approve the plans for Las Flores Creek Park Improvement, Phase 1; 2) Adopt Resolution No. 01-67 approving the application for grant funding from the California Department of Parks and Recreation - Proposition 12, for a pedestrian bridge and public parking at Las Flores Creek Park; and 3) Direct staff to bring back the project phasing schedule as funding is identified. The question was called and the motion carried 4-0, Councilmember Hasse absent.

B. Change to Mitigation Measure 6.2 (Conservation Easement) of the Rancho Malibu Hotel Project

Staff recommendation: Review and accept the requested change for consistency with the Rancho Malibu Hotel Mitigation Measure 6.2 (Conservation Easement).

Planning Director Hogan presented the staff report.

Don Schmitz, representing the property owners and applicants, urged the Council to approve the staff recommendation. He discussed Mitigation Measure 6.2 which allows an alternative location for replacement of Coastal Sage Scrub.

Steve Nelson, biologist for the applicant, discussed his involvement in conservation planning. He stated more was better and encouraged the Council to approve the proposal.

Mr. Schmitz provided an overview of the proposal before the Council. He urged the Council to accept the revised conservation easement.

Patt Healy, Coalition for Slow Growth, stated she recalled the intent was to locate the easement within the City limits. She discussed the conservation easement agreement. She discussed the EIR for the Adamson Hotel and stated the site was chosen to remove possible development along Malibu Canyon Road from HRL to the tunnel. She contended that there would be visual impacts and there were biological benefits to retaining the original conservation easement.

Councilmember Kearsley discussed the topography of the site. He questioned whether the original agreement could be altered and if this would reopen the Adamson Hotel project. He stated he did not see why the City would be interested based on health and safety issues and that the City would not be granted anything additional.

Mayor Pro Tem Jennings questioned the boundaries of the proposed easement. Senior Planner Purvis explained the proposed area for the conservation easement.

Mayor House read a portion of the original deed regarding the easement. She read the purpose of the original easement to prevent any use of the easement area that would significantly impair the conservation value. She stated it appeared that the Council could not grant the road or change in topography or to substitute the easement.

Councilmember Barovsky stated the property was outside the City limits. She stated she could not support the proposal.

Mayor Pro Tem Jennings asked Mr. Schmitz if the original covenant restricted residential use of the property. Mr. Schmitz explained the restrictions on the open space easement. He explained the legal basis for the open space easement was to protect habitat values. He stated it would not be impossible to develop the property with the current easement, but would be more difficult. Mayor Pro Tem Jennings discussed the diminished value created by the conservation easement. He stated he would not support granting the proposal.

**MOTION** Councilmember Barovsky moved and Councilmember Kearsley seconded a motion to deny the request. The motion carried 4-0, Councilmember Hasse absent.

**ITEM 6 NEW BUSINESS**

None.

**ITEM 7 COUNCIL ITEMS**

None.

**ADJOURN** At 8:14 p.m., Councilmember Kearsley moved and Councilmember Barovsky seconded a motion to adjourn in memory of Helen Morgan and Legrand Lewis Jordan. The motion carried unanimously.

Approved and adopted by the City Council of the  
City of Malibu on December 10, 2001.

---

JOAN HOUSE, Mayor

ATTEST:

---

LISA POPE, City Clerk  
(seal)